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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,429	05/05/2004	EAKKAPONG POWPONG		3428

7590 03/06/2007
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EXAMINER

SIM, YONG H

ART UNIT	PAPER NUMBER
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2629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/709,429

Applicant(s)

POWPONG, EAKKAPONG

Examiner

Yong Sim

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 24 and 25 is/are rejected.
- 7) ☒ Claim(s) 1-13, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05/05/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Oath/Declaration

Applicant has failed to provide a properly signed oath/declaration.

Drawings

1. The drawings are objected to because the elements shown in Fig. 2 and 3 are not clearly legible, therefore not comprehensible. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

1. Claims 1 – 13 and 24 - 25 objected to because of the following informalities: The claims contain numerous grammatical and idiomatic errors. For example,

Re claim 2, Mouse having massage feature as recite in claim 2... An appropriate article should precede the term "Mouse" and "massage feature," and "recite" should be changed to "recited" to be grammatically correct.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: In the abstract, lines 4 – 6; "User can control the massaging of mouse by switch cooperate with light sensing and adjustable level of massaging." In the spec., lines 7 – 12; "Meanwhile, LDR will decreasing electric resistance and the positive voltage signal will proceed from operation amplifier under

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adjustable resistance controlling, the adjusted electric current from source is supplied to motor passthrough the darlington transistor and switch.” Also, there are numerous occasions of using a capital letter after a comma throughout the specification. These minor informalities should also be fixed along with the examples above.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

- 1. Claims 1, 3 and 12 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.**

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited. (US 6,599,259) Claims 1,3 and 12 contain more than one sentence.

2. Claim 2 – 11 and 24 – 25 are dependent claims of claim 1. Therefore, they are rejected under 35 U.S.C. 112, second paragraph for the same reason as claim 1.

3. Claim 3, 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 3, Mouse having massage feature as recite in claim 2, "wherein the massage mechanism which control by switch cooperate with the light sensing system." An adjustable level of massaging is included. The phrase is indefinite and unclear, thereby the meaning of the claim can not be clearly determined.

Re claim 4, "wherein adjustable level of massaging is neglect." The phrase is indefinite and unclear, thereby the meaning of the claim can not be clearly determined.

Re claim 5, "Light Decreasing Resistor (LDR)." LDR is not clearly defined in the specification. Therefore LDR will be construed as any light sensing means.

4. Claim 1 recites the limitation "The mouse" in line 2. There is insufficient antecedent basis for this limitation in the claim. For the purpose of art rejection "The mouse" will be construed as being "a mouse."

5. Claim 3 recites the limitation "The light sensing system" in line 2. There is insufficient antecedent basis for this limitation in the claim. For the purpose of art rejection "The light sensing system" will be construed as being "a light sensing system".

6. Claim 5 recites the limitation "The light sensing device" in line 2. There is insufficient antecedent basis for this limitation in the claim. For the purpose of art rejection "The light sensing device" will be construed as being "the light sensing system".

7. Claim 9 recites the limitation "The light operable window" in line 2. There is insufficient antecedent basis for this limitation in the claim. For the purpose of art rejection "The light operable window" will be construed as being "a translucent window".

8. Claim 12 rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

9. Claim 13 is a dependent claim of claim 12. Therefore, it is rejected under 35 U.S.C. 112, second paragraph for the same reason as claim 12.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muir (US 6,599,259 B2) in view of White (US 5,457,480).

Re claim 1, Muir teaches a peripheral input device (30 "input device," Fig. 2) for controlling movement on a display screen. More particularly, having massage mechanism (20 "massaging element," Fig. 3). The mouse (30 "input device," Fig. 2) having massage feature comprising: a housing (See Fig. 3); the massage mechanism (20 "massaging element," Fig. 3).

But fails to teach a massage disabling cover use as option for using mouse without massaging.

However, White teaches a mouse (White: 14 "mouse" Fig. 2) with an integrated keypad wherein the mouse comprises a cover/hood (White: 210 "hood" Fig. 2) so that the keypad becomes inaccessible, thereby enabling the device to function as a conventional mouse without the keypad (White: Abstract). White teaches the idea of covering the keypad mechanism on the top of the mouse to use the mouse without the keypad mechanism similar to covering the massaging function.

Therefore, taking the combined teachings of Muir and White, as a whole, it would have been obvious to a person having ordinary skill in the art to incorporate the mouse with a cover/hood as taught by White to cover the massaging mechanism of the input device as taught by Muir to obtain a mouse with a massaging element wherein a cover/hood is provided to cover the massaging element, which enables a user to access to both a conventional mouse and a massaging device with one apparatus, thereby saving space and I/O ports. (White: Col. 1, lines 28 – 46).

Re claim 2, the combined teachings of Muir and White teach Mouse having message feature as recite in claim 1, wherein message mechanism make up a substantial portion of housing (See Fig. 2).

13. Claims 3, 5 – 11, and 24 – 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muir (US 6,599,259 B2) in view of White (US 5,457,480) as applied to claim 1 and 2 above, and further in view of Schena et al. (Hereinafter Schena).

Re claim 3, the combined teachings of Muir and White teach Mouse having massage feature as recite in claim 2, wherein the massage mechanism which control by switch. (Muir: 12 "on/off switch," Fig. 2) An adjustable level of massaging is included (Muir: 14 "rheostat," Fig. 2. Col. 4 lines 10 – 13; "rheostat may be configured to control one or more massage stimulus characteristic/level.).

But do not teach a switch cooperating with the light sensing system.

However, Schena teaches a force feedback mouse which includes an optical switch/light switch, which is operated by sensing ambient light through a surface of the housing (light sensing system. Col. 29, lines 19 - 26.).

Therefore, taking the combined teachings of Muir, White and Schena, as a whole, it would have been obvious to a person having ordinary skill in the art to incorporate the mouse with a light sensing switch as taught by Schena to the mouse as taught by Muir and White to obtain a mouse with a massaging element which is operated by a light activated switch to prevent a user from injury due to unexpected movement of the mouse. (Schena: Col. 29, lines 5 - 10).

Re claim 5, the combined teachings of Muir, White and Schena teach Mouse having massage feature as recite in claim 3, wherein use the Light Decreasing Resistor (LDR) [Shena has previously described a light sensing optical switch in claim 3. Refer to claim 3.] as the light sensing device.

The limitations of claim 6 are substantially similar to the limitations of claim 3. Therefore it has been analyzed and rejected similar to the rejection of claim 3. With respect to the light operable window make up a substantial portion of the housing, Schena has previously described that the optical switch is on a surface of the housing.

The limitations of claims 7 and 8 are substantially similar to the limitations of claim 3. Therefore it has been analyzed and rejected similar to the rejection of claim 3. With respect to the housing being translucent and light transmissive, in order for the optical switch to detect the ambient light, the surface of the housing must be translucent and transmissive.

The limitations of claim 9 are substantially similar to the limitations of claim 7.

Re claim 10, the combined teachings of Muir, White and Schena teach Mouse having massage feature as recite in claim 3, wherein the mouse device is mechanical mouse (Muir: Fig. 3; The mouse comprises a trackball. Therefore it is a mechanical mouse.)

Re claim 11, the combined teachings of Muir, White and Schena teach Mouse having massage feature as recite in claim 3, wherein the mouse device is optical mouse.

Since Applicant has failed to disclose that (being an optical mouse) provides an advantage, is used for particular purpose, or solves a state problem, it is obvious matter of design choice to (have an optical mouse in Muir).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to (use an optical mouse), to prevent any malfunction caused by deposition of dust in trackballs.

Re claim 24, the combined teachings of Muir, White and Schena teach the mouse having a massage feature as recite in claim 3, wherein transmitting signals to outside devices through an output cable (162 "cable" Fig. 3).

Re claim 25, the combined teachings of Muir, White and Schena teach the mouse having a massage feature as recited in claim 3, but does not explicitly teach the mouse being wireless.

However, Examiner takes official notice that it is well known in the art at the time of the invention to use a wireless mouse. (Pg. 3, Para 6)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention to use a wireless mouse to eliminate cable thereby creating more space and user freedom of movement.

Conclusion

The application contains numerous types of errors. Examiner respectfully advises Applicant to follow rules and procedures and make the appropriate corrections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Sim whose telephone number is (571) 270-1189. The examiner can normally be reached on Monday - Friday (Alternate Fridays off) 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amr Awad can be reached on (571) 272-7764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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AMR A. AWAD
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read "Amr A. Awad", written over the printed name and title.